

Relevant Compact Article 2 Section 2.3

Proposed implementation language: **Article 10**

Section 10.1 Chief executive duties and delegation authority

(a) The governor, ex officio, shall serve as the Indiana administrator of the Great Lakes-St. Lawrence river basin water resources compact and may delegate at his or her discretion the administrative authority for purposes of:

(1) attending all meetings of the Great Lakes-St. Lawrence river basin water resources council; and

(2) voting on matters before the council in the governor's absence.

(b) The governor shall do all of the following as administrator:

(1) Receive copies of all agreements that are entered into pursuant to the compact by this state or its political subdivisions and other states or their political subdivisions;

(2) Consult with, advise, and aid this state, other states, and political subdivisions in the formulation of such agreements;

(3) Make any recommendations to the general assembly, legislatures of other states, governmental agencies, and political subdivisions that the governor considers desirable in order to effectuate the purposes of the compact;

(4) Consult with and cooperate with the compact administrators of other states that are parties to the compact.

(5) Pursuant to Section 9.2 of the Great Lakes-St. Lawrence river basin water resources compact, the governor may take such actions as are necessary for the initial organization and operation of the Great Lakes-St. Lawrence river basin water resources council created in Section 2.1 of the compact. Agencies of the state are hereby authorized to cooperate with the council.

Relevant Compact section 3.1

Proposed implementation language:

10.2 Modification of the standard of review and decision

Prior to casting a vote under Section 3.1 of the Great Lakes-St. Lawrence river basin water resources compact with respect to any regulation that amends or revises the standard of review and decision, the governor or the governor's alternate shall obtain authorization from the general assembly for the vote. The governor or the governor's alternate shall obtain the authorization via a concurrent resolution adopted or bill enacted by the general assembly. The governor or the governor's alternate shall exercise the vote consistent with the terms of the general assembly's authorization. The procedures established in this section are material requirements for adoption of any such regulation in accordance with Section 3.1 of the compact and Indiana's respective statutory authority and procedures.

Relevant Compact section 4.2. Water Conservation and Efficiency Programs.

Proposed implementation language:

10. 3 Conservation and efficiency

The Natural Resources Commission shall not adopt rules or implement any mandatory program governing water conservation and efficiency pursuant to Section 4.2 of the compact of the program or adoption of rules. However the Natural Resources Commission shall adopt rules under IC 4-22-2 that implement voluntary water conservation and efficiency programs. Such voluntary programs shall not include any mandatory requirements unless the general assembly enacts legislation after passage of this chapter authorizing the implementation of mandatory requirements.

Relevant Compact section 4.10. Management and Regulation of New or Increased Withdrawals and Consumptive Uses.

Proposed implementation language:

10.4 Water Management Program

10.4.1 The Natural Resources Commission shall adopt rules under IC 4-22-2 for the implementation, administration and enforcement of Article 4 of this chapter. The rules may provide for general permits.

- (a) A proposals to transfer water to an area out of the basin shall be considered for managed and regulated utilizing the thresholds established in Section 4.9
- (b) A proposal for a new or increased direct withdrawal from Lake Michigan surface water of five (5) million gallons per day (MGD) or greater average over any ninety (90) day period shall be subject to permit requirements.
- (c) A proposal for a new or increased direct withdrawal from surface water other than Lake Michigan or groundwater of one (1) million gallons per day (MGD) or

greater average over any ninety (90) day period shall be subject to permit requirements.

(d) Within 10 years of the effective date of the Compact, the general assembly shall study and make findings and recommendations concerning the following:

- (1) Appropriateness of the threshold permit values established in this section,
- (2) Any changes in those values that the general assembly deems warranted.

Relevant Compact section 4.11.2.

Proposed implementation language:

10.4.2 It is the understanding and intent of the general assembly that Section 4.11.2 of the Great Lakes-St. Lawrence river basin water resources compact shall be interpreted to require that a withdrawal or consumptive use will be implemented so as to ensure that the withdrawal or consumptive use will result in no significant individual or cumulative adverse impacts on the quantity or quality of the waters and water dependent natural resources of either of the following:

- (a) The basin considered as a whole;
- (b) The applicable source watershed considered as a whole.
- (c) In addition, it is the understanding and intent of the general assembly that impacts of a withdrawal or consumptive use on the quantity or quality of waters and water dependent natural resources of more localized areas that affect less than the basin or an applicable source watershed as a whole are to be considered a part of the evaluation of reasonable use as provided in Section 4.11.5 of the compact.

Proposed implementation language: Consumptive use

10.4.3 Consumptive use values required under Article 4 shall be provided by the applicant using, at the applicant's option, either of the following methods:

- (a) The most current values published for the appropriate sector from:
 1. the United States Geological Survey;
 2. the Great Lakes Commission;
 3. the Great Lakes-St. Lawrence River Basin Water Resources Council; or
 4. other sources approved by the Department of Natural Resources
- (b) Site specific calculations for the respective facility which are based on standard engineering practices.

Relevant Compact section 4.12.2. Baseline

Proposed Implementation Language Baseline:

10.4.4 Baseline determinations required under Section 4.12 will be made pursuant to IC 14-25-7-15

Amend Existing Indiana Code at: IC 14-25-7-15

Significant water withdrawal facilities

Sec. 15. (a) As used in this section, "significant water withdrawal facility" means the water withdrawal facilities of a person that, in the aggregate from all sources and by all methods, has the capability of withdrawing more than one hundred thousand (100,000) gallons of ground water, surface water, or ground and surface water combined in one (1) day. The term does not include:

.....(c) A significant water withdrawal facility must be registered within three (3) months after the facility is completed.

(d) The owner of a registered significant water withdrawal facility shall, within three (3) months after the end of each year, make a verified report to the commission on forms to be provided by the commission of the amounts of water withdrawn during the year.

(e) This section governs any status determination of a baseline, under Section 4.12.2. of IC 14-25-15, for each of the following from the Indiana portion of the Great Lakes Basin:

(1) The total withdrawal capability registered under IC 14-25-7-15.

(2) A consumptive use attributable to the facility described in subdivision (1).

(3) A facility for a diversion.

(b) The department shall make each determination required under subsection (a) following an investigation. Before completing the investigation, the department shall inform the owner of the facility of the amount of any proposed baseline and providing the owner with a period of at least thirty (30) days to offer documentation the owner believes would properly modify the proposed amount.

(c) The department shall, under IC 4-21.5-3-5, provide notice of a status determination to the owner of the facility described in subsection (a).

(d) The owner of a facility described in subsection (a) is the exclusive person with standing to seek administrative review of a status determination under this section.

(e) Determinations made under this provision shall reflect conditions that exist on December 31, 2008.

(f) The baseline for facilities established after January 1, 2009 will be established with the initial registration under this section.

(f) Under rules adopted by the department, the department may waive the requirement of the information set forth in subsections (b) and (d) with respect to a temporary significant water withdrawal facility.

As added by P.L. 1-1995, SEC.18. Amended by P.L. 123-1996, SEC.17.

Relevant Compact section 4.12.10. 10. Bulk Water Transfer

Proposed implementation language:

10.4.5 It is the intent of the general assembly that any incorporation of water into a product that is produced within Indiana portion of the Great Lakes-St. Lawrence river basin and packaged and intended for intermediate or end-use consumers, whether distributed inside or outside the basin, is a consumptive use and does not constitute a diversion for purposes of the Great Lakes-St. Lawrence river basin water resources compact. Water withdrawn from the basin and packaged in containers equal to or less than 5.7 gallons in capacity shall be considered a product.

Amend IC 14-25-1-11 according to the following structure

Sec. 11. (a) The general assembly finds that a diversion of water out of the GreatLakes Basin, **unless conducted under the Great Lakes-St. Lawrence River Basin Water Resources Compact**, will impair or destroy the Great Lakes. The general assembly further finds that the ~~prohibition~~ **regulation** of a diversion of water from the Great Lakes Basin is consistent with the mandate of the Preamble to and Article 14, Section 1 of the Constitution of the State of Indiana, the United States Constitution, and the federal legislation according to which Indiana was granted statehood.

(b) Water may not be diverted from that part of the Great Lakes drainage basin within Indiana to a basin outside the Great Lakes Basin unless the diversion is:

(1) approved by the governor of each Great Lakes state under 42 U.S.C. 1962d-20 (Water Resources Development Act); **or**

(2)conducted after the effective date of, and according to, the Great Lakes-St. Lawrence River Basin Water Resources Compact.

(c) The commission shall adopt rules necessary to implement this section.